

FORM 2 - AGGRAVATING AND MITIGATING CIRCUMSTANCES

(Use Form 4 also for Sex Offenses with Alternative Minimum Lengths of Stay)

Note any aggravating or mitigating circumstances that may justify departure from the guidelines by entering the page number of the presentence report where the court can find supporting information.

This list of aggravating and mitigating factors is non-exhaustive and illustrative only.

The weight given to each factor by the sentencing authority will vary in each case. Any one factor could outweigh some or all other factors.

Aggravating Circumstances

Only use aggravating circumstances if they are not an element of the offense.

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- ____ 1. Multiple documented incidents of violence not resulting in conviction. (Requires court approved stipulation.)
- ____ 2. Offender presents a serious threat of violent behavior.
- ____ 3. Victim was particularly vulnerable.
- ____ 4. Injury to person or property loss was unusually extensive.
- ____ 5. Offense was characterized by extreme cruelty or depravity.
- ____ 6. There were multiple charges or victims.
- ____ 7. Offender's attitude is not conducive to supervision in a less restrictive setting.
- ____ 8. Offender continued criminal activity subsequent to arrest.
- ____ 9. Sex Offenses: Correction's validated assessment tools classify as a high risk offender.
- ____ 10. Offender was in position of authority over victim(s).
- ____ 11. Financial crime or theft crime involved numerous victims, an exploitation of a position of trust, a substantial amount of money, or receipt of money from sources including, but not limited to, equity in a person's home or a person's retirement fund.
- ____ 12. Offender occupied "position of trust" in relation to murder/homicide victim(s) (U.C.A. 76-3-406.5(2))
- ____ 13. Offense constitutes a "hate crime" in that it is likely to incite community unrest; cause community to reasonably fear for physical safety or freely exercise constitutionally secured rights (U.C.A. 76-3-203.4)
- ____ 14. Violence committed in the presence of a child.
- ____ 15. Other (Specify) _____

Mitigating Circumstances

- ____ 1. Offender's criminal conduct neither caused nor threatened serious harm.
- ____ 2. Offender acted under strong provocation.
- ____ 3. There were substantial grounds to excuse or justify criminal behavior, though failing to establish a defense.
- ____ 4. Offender is young.
- ____ 5. Offender assisted law enforcement in the resolution of other crimes.
- ____ 6. Restitution would be severely compromised by incarceration.
- ____ 7. Offender's attitude suggests amenability to supervision.
- ____ 8. Offender has exceptionally good employment and/or family relationships.
- ____ 9. Validated assessment classifies offender as low risk to reoffend.
- ____ 10. Offender has extended period of arrest-free street time.
- ____ 11. Offender was less active participant in the crime.
- ____ 12. All offenses were from a single criminal episode.
- ____ 13. Offense(s) was "possession only" drug offense. (see "possession only" offenses, Addendum B)
- ____ 14. Offender has completed or has nearly completed payment of restitution.
- ____ 15. Other (Specify) _____

Days of Jail Credit _____

Guidelines Placement Recommendation _____

AP&P Recommendations _____

Reason for Departure _____

OFFENDER NAME: _____

SCORER NAME: _____

DATE SCORED: _____

FORM 4 - AGGRAVATING & MITIGATING CIRCUMSTANCES FOR SEX OFFENSES WITH ALTERNATIVE MINIMUM LENGTHS OF STAY

(Also use Form 2 for all sex offenses)

Utah law provides alternative indeterminate lengths of stay (6 years to life, 10 years to life, or 15 years to life) for sex offenses represented by columns A, B, and C on Form 3 – Sex & Kidnap Offender Matrix. The court shall order the term of 15 years to life, for offenders convicted of one of these offenses unless mitigating circumstances justify downward departure to an indeterminate term of ten years to life or six years to life. The responsibility to weigh aggravating and mitigating circumstances in each case rests with the court, subject to applicable statutes and relevant case law. The weight given to each factor by the sentencing authority will vary in each case. The pre-sentence investigator should note any aggravating or mitigating circumstance that merits consideration by the court by entering the page number of the presentence report where the court can find supporting information.

This list of aggravating and mitigating factors is non-exhaustive and illustrative only.

Aggravating Circumstances

The following aggravating circumstances should only be considered if they are not an element of the offense.

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- ____ 1. The victim suffered substantial bodily injury or serious bodily injury.
- ____ 2. The offense was characterized by extreme cruelty or depravity.
- ____ 3. The victim was unusually vulnerable.
- ____ 4. Offender has previously failed to complete treatment or has completed treatment and re-offended.
- ____ 5. The defendant exhibited grooming, stalking or enticing behaviors.
- ____ 6. Other (Specify) _____

Mitigating Circumstances

- ____ 1. The offender was exceptionally cooperative with law enforcement; i.e. self-surrender or confession.
- ____ 2. Incest offender has strong, supportive family relationships.
- ____ 3. Offender is a good candidate for an evidence-based treatment program. Substance abuse treatment may be appropriate if the offense was specifically substance related.
- ____ 4. Developmental disabilities of the offender may be considered in mitigation if highly structured alternatives can be utilized to control the offender's criminal behavior.
- ____ 5. Other (Specify) _____

OFFENDER NAME: _____ DATE SCORED: _____
SCORER'S NAME: _____

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